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ABSTRACT

For Canada Natives, the unresolved issue of postsecondary education as a treaty right is at the center of discord in relation to budget constraints. The government's fiduciary responsibilities have devolved to First Nations administration, which allows for greater tribal control over the economics of individual First Nations and jurisdiction for the protection of treaty rights. However, devolution has not benefitted most First Nations in terms of the amount of funding available for delivery of postsecondary programs and services, including adult literacy, upgrading, trades, and technical training. National budget allocations determine funding for programs and services under First Nations administration. The off-loading of postsecondary education has resulted in decreases in staffing and administration dollars and increases in student waiting lists. These funding constraints come at a time when First Nations require an educated labor force to deliver programs and services to a growing population. The political climate makes it difficult for First Nations to assert education as a treaty right. Full accessibility to university education is questionable as First Nations struggle to honor the perceived right to education while being forced to create a policy that limits the number of students who may enter universities. It is a situation where First Nations administrators have become keepers of the peoples' destiny. (TD)

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Canadian Policy – First Nation Involvement in the Funding and the Politics of Post-Secondary Education: How Much is Enough?

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Canadian Policy -
First Nation Involvement in the Funding and the Politics of Post-Secondary Education:
How Much is Enough?

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Abstract

In Canada, First Nations adopt the position that education is a treaty right that should not be limited by budget constraints or the discord of fudiciary responsibilities. First Nations representatives and those of the Crown negoitated treaty rights and education was promised and education would provide the assistance needed for First Nations survival in modernity . However, First Nations did not agree to assimilation and leaving their culture and communities that happened when the government became keeper of the wards and incarcerate First Nations on reserves.

The purpose of this paper is to discuss the historical participation of First Nations students in obtaining university education in Canada. The paper outlines the state's historical extension of control by the enforcement of the Indian Act upon First Nations citizens. Previously, the Indian Act denied First Nations access and entrance into university education, however, changes in 1960 resulted in First Nations participation in university programs.

This paper discusses the history of the Indian Act pertaining to post secondary education; the development of policy for the administration of post secondary education; a shift in governmental relations; student reaction to the implementation of policy and policy changes; and the dichotomy of administration and control of post secondary education. The contradication in how devolution of post secondary education resulted in First Nations administrating a program that does not recognize treaty right to education.

I argue that central to the discord is argument over the treaty right to education. Current debate concerns the constraints on funding of post secondary education and the treaty right to post secondary education. The budget constraints are at a time when First Nations require an educated labour force for the delivery of programs and services to a growing population. The programs and services are to handle a First Nations population both on reserve and off reserve. The constraints result in the training of a First Nations labour force with limited resources and time.

The government's position is that " education is a privilege and not a right". The privilege to education has meant a controlled budget and monitoring of the participation of First Nations students in university programs. The privilege for First Nations students to access funding is to wait to attend university. The privilege for First Nations administrations is the deficits, the waitlist, and the frustration of treaty right to education not being recognized or addressed by the government - keeper of the wards.

Canadian Policy -
First Nation Involvement in the Funding and the Politics of Post-Secondary Education:
How Much is Enough?

Contrary to nineteenth century promises, First Nations have been denied opportunities to " learn the cunning of the whiteman". Instead, First Nations have been without academic qualifications to enter the labour market, skills to compete with others for goods and services, and access to participation as citizens in their own country. This paper introduces the difficulties First Nations had in order to achieve educational equity with the Canadian population by presenting the history of the Indian Act, the history of post secondary education, the change in governmental relations, student's reaction and the current policy on post secondary education.

The history of the Indian Act is important because policies monitored, regulated, and administered the day to day lives of First Nations land and people. The state used the Indian Act as its legislative tool to administer policies. The state protectionist policy incarcerated First Nations as "Wards of the Crown" and successfully removed their political and civil rights as citizens. Consequently, for this reason were unable to defend their political and civil rights as First Nations.

In the area of education, the Indian Act did not allow for the participation of First Nations students in obtaining university level education. The Indian Act allowed for the government to determine the scope and the nature of "learning the cunning of the whiteman" that did not include post secondary education. The nature and understanding of the treaties from the First Nations perspective is that post secondary education is a "treaty right". It is a right that comes from treaty in that the government agreed to teach First Nations how to survive in modernity. In post modernity, the treaty right to education is quite central to the discord of interpretations of by First Nations and the government.

History

I have chosen to cite examples of the policies of the past to demonstrate the discord in the nature and scope of "treaty rights". Treaty rights have shared histories of policies, agreements, and governmental control. Previously, the state defined the nature and scope by the financing and administration of treaty rights. The administration of treaty rights led to the creation of an Indian department and the employment of officials. Satzewich's (1995) research indicates that the financing of treaty rights allowed the state to ensure two factors: political patronage and moral regulation.

The moral regulation of First Nations was central to the constitution of the Department of Indian Affairs. The past policies in areas of citizenship - enfranchisement, pass and permit systems, religion, education, health, and welfare defined the scope and nature of treaty rights. It was the intent to limit the civil and political rights of First Nations as well as the government's fiduciary responsibilities. The state's aim was to assimilate First Nations. The Indian Act did not allow First Nations to determine their own destiny as promised in the treaties. Instead, the Act stripped First Nations of the political power and First Nations did not determine their own rules of governance and administration of social programs . The Indian Act sought to disregard First Nations sovereignty. Rather, the state imposed their notion of sovereignty upon First Nations.

The state's agenda has not differed over time. The past policies directly link to current implementations of policy in the delivery of programs and services for First Nations to exploit First Nations land, resources, and people. The state has continued its policy on assimilation by defining who is an Indian; what benefits Indians are entitled to, dependent upon residency - off reserve and urban; and the population is used to determined funding for the delivery of programs and services devolved to First Nations.

The **Indian Act of 1876** and subsequent amendments define and administer the rights and privileges of First Nations. The legislation was more significant for its impact on the lives of those defined as Indians by the policies that allow for the administration of their day to day lives. The act sought to regulate and assimilate First Nations and to control Indians by creating a protection policy that exploits First Nations land and its peoples.

In the past, the protectionist policy of the Indian Act allowed the state to assure their citizens that First Nations would be civilized. It refused the rights of First Nations people to be neither entrenched nor recognized as citizens in their country. As Ponting and Gibbens (1980:17), note , " This outlook, coupled with the sweeping powers of the Indian Act and the high proportion of former military men and clergyman with Indian Affairs, entrench paternalism within the Department." The treaties did not outline or determine the relationship between First Nations and the state. Rather, it was the Indian Act's wide sweeping power that restricted contact and enforced segregation.

The policies were beneficial to the state and the state was able to control First Nations land, resources and people. The exploitation of First Nations allowed for domination and surveillance of their nations in the form of a Department and a departmental policy. The Act created a system of administration in that officals and Indian Agents were appointed to manage the lives of First Nations. The tactics used by Indian Agents ensured that the reserves would be monitored and regulated. The state and state officials maintained control and First Nations became second class citizens in their homeland. The system of apartheid was complete as First Nations were segregated and controlled on reserves.

Hamilton, (1995:9) states,

> "Instead of enjoying the freedom of the past, no Indian could leave a reserve without a written pass from the Indian Agent. Indian people were arrested if they did not have a pass and could not leave the reserve to fish or hunt without permission. Religious ceremonies and celebrations were forbidden, Indians were prohibited from wearing traditional costumes, and people were stopped from visiting extended family members on another reserve."

Since the signing of the treaties, First Nations' attempts to petition their concerns were met with new amendments to the Indian Act that further limited their civil and political rights. The state became the keeper of the wards due to the classification of First Nations as "Wards of the Crown" . The special status as Indians - Wards of the Crown did not allow for First Nations to control their destiny. The state did not recognize First Nation participation in federal or provincial elections because of their special status as Indians. The state prohibited First Nations from obtaining legal council to assist First Nations in their attempts to have their concerns addressed and heard. Dickason (1992) and Hamilton (1995) discuss the amendments as vehicles to silence the voice of First Nations resistance. The voice of the political representatives, their citizens and supporters who resisted the Act and the state's mandate to assimilate were refused. " Protest meetings were outlawed and during the period for 1927 to 1951, no lawyer could be engaged to fight the cause of any band as

it was illegal to raise money to commence a claim against the Crown. Indians had no rights to vote in federal or provincial elections." (Hamilton: 1995:10)

After World War II, a change in governmental attitude happened as Indian veterans were successful in the lobbying of awareness to the plight of First Nations. First Nations veterans joined voluntarily to defend Canada and fought in wars only to return to Canada as second class citizens. For their efforts, First Nations land was allotted to others veterans under the Solider Settlement Act. First Nations were not eligible for benefits as other soldiers under the Soldier Settlement Act. The rationale was that First Nations could not be conscripted to fight. Consequently, First Nations veterans were ineligible to receive benefits due to their special status as Indians.

First Nations veterans and their supporters were successful in having their concerns heard and addressed. Dickason (1992:329) states , "When they returned to civilian life, the restrictions and inequities of their lot on reserves became so glaringly evident that veteran's organization and church groups mounted a campaign that resulted in the establishment of a Joint Senate and House of Commons Committee on the Indian Act, which held hearings from 1946 to 1948"

The establishment of the Joint Senate and House of Commons Committee resulted in revisions to the Indian Act in 1951. The revisions implemented the civil and political rights of First Nations. In 1960, First Nations received the right to participate in federal and provincial elections. The right to vote recognized that First Nations were now citizens of their own country. The change in policy allowed for First Nations to obtain legal counsel and the opportunity to address the inequalities of the past. The 1960's was an era of civil and political rights reinstated, urbanization, integration and the removal of policies that previously inhibited First Nations participation in Canada.

The Change in Governmental Relations

The change in governmental relations was a direct result of globalization. It was not out of a genuine concern for First Nations plight in Canada. Internationally, the treatment of Canada's First Peoples was known and political pressure changed the prevalent attitude of the state. The 1951 revision to the Indian Act allowed for First Nations to begin to enter the Canadian mosaic as participating members. In 1960, First Nations received the right to vote and were now considered citizens of their own land. Previously under the Indian Act, First Nations could not maintain two citizenships -- First Nations and Canadian.

The 1960's was an era of transition as First Nations were able to access the urban centers, participate in the labour market, access educational facilities and practice their traditional ways. Indian Agents were replaced by civil servants. First Nations actively participated in the political process. The government sought integration of First Nations and sought to address equality through the release of a discussion paper commonly referred to as the **White Paper**.

In 1969, the relationship between the government and First Nations changed with the release of the **"White Paper."** The **White Paper** proposed to absolve the government of its relationship with First Nations through the notion of changing the definition of Indian status to **citizen plus**. The idea of **citizen plus** was to remove the citizenship and policy barriers to First Nations and allow for equal participation of First Nations. The paper's objective was to remove the status of Indians and the protection of Indian lands.

The discussion paper was met with protest, confrontation and policy confusion as First Nations demanded an immediate withdrawal of the paper and the intentions of assimilation. The government could not understand why First Nations would not want to embrace such a policy as equality. First Nations understood the intent of extirpation of Indians and Indian lands by embracing such a policy. Tobias (1983:53) states, " the government announced its intention to absolve itself from the responsibility for Indian Affairs, that is, the Indian Act. By adoption of this policy and by repealing the Indian Act, Indians would be assimilated by government fiat, and what the Indian Act of 1876 had sought as a long - term goal--the extirpation of the Indians and Indians lands would be realized."

First Nations feared the loss of the special status under the Indian Act. First Nations were not willing to negotiate or surrender their First Nations citizenship to become Canadian. First Nations sought the recognition of two citizenships -- First Nations and Canadian. The **White Paper** was not in the interest of First

Nations but rather in the interest of the state and state administrators. The federal government recognized that the programs and services would increase with the growing off - reserve population.

In the 1960's the federal government was not attempting to off-load programs and services to the provinces. The government created programs and services for the growing First Nation population. The funds were abundant and all levels involved with the purchases of Indian programs and services. Why, then, is such a policy now in progress as First Nations organizations are experiencing off-loading and downsiding of programs and services from the federal government?

Post Secondary Education: Historical Overview

The history of programs and services development is important to analyze as it allows for a deeper understanding of how First Nations dealt with the off loading of post secondary education. This section of the paper addresses the development of post secondary education policy for First Nations.

Since the 1960's, the Department of Indian and Northern Affairs funded First Nations students in their educational endeavors in the area of post secondary education . The Department did not have a developed policy or budget for the funding of post secondary education. It was not needed as the student population was minimal. However, the government of the 1960's and 1970's were liberal in their commitment to advanced level education for First Nations. The government's objective was to increase the numbers of First Nations students attending university. It sought to address the inequality by creating programs for teachers and social workers to address the plight of First Nations communities.

The education policy did not limit the numbers or the access of First Nations students attending post secondary institutions. In fact, Jean Chretien, Minister of Department of Indian Affairs, in 1971 stated , " I have given the National Indian Brotherhood my assurance that I and my department are fully committed to realizing the educational goals for the Indian people which are set forth in the Brotherhood's proposal." (DIAND:1973:5) The department and NIB were able to come to a common understanding that allow for the protection of education as treaty right for and the participation of First Nation students in the academies of higher learning.

During the 1970's and 1980's, demands for change to the education and child welfare system resulted in the implementation of First Nations policy alternatives. First Nations organizations were involved with areas of policies pertaining to First Nations control and jurisdiction. In 1972, the National Indian Brotherhood (NIB) released a document, **"Indian Control of Indian Education"** that would set policy for the expansion of educational development. A policy was developed for the administration of First Nations control in the education system. The bands began to administer and teach in their traditions. It was a time of transfers of programs and jurisdiction as First Nations assumed control over their destiny.

In 1974, after the release of "Indian Control to Indian Education" , INAC officials developed new guidelines to administer post secondary funds and to address the needs of students. The guidelines were developed without input from First Nation. First Nations did not agree to the terms or to the administration of a program that did not recognize education as a treaty right. It was during a three year period (1975-78) an additional set of guidelines in post secondary education were introduced and tabled in the House of Commons. In October of 1977, the Treasury Board granted approval for the implementation of E-12 guidelines budget and policy. The guidelines created a policy for INAC to administer post secondary funds and to address the needs of students. (Ward:1988:212)

The Consolidated Revenue Fund was the previous source of budget until the implementation of the E-12 guideline. First Nations representatives felt that the Consolidated Revenue Fund should be used instead of the Treasury Board. The Consolidated Revenue Fund was revenue dollars which could not be capped nor limited. First Nations felt that the Treasury Board was subjected to financial limitations because the Treasury Board could cap and limit programs and services. As Ward notes, " Monies to be spent on adult education, vocational education, and post secondary education were considered to be discretionary, i.e., Monies available from what is left after non-discretionary or statutory responsibilities are fulfilled. Consequently, budget restrictions for post secondary education were inherent in the actual funding process " (1988:88)

Additionally, during the 1980's , two political factors influenced the assertion of political and civil rights by First Nations. In 1982, the first political factor was the repatriation of the Constitution of Canada. The Constitution section 25/35 dealt with the entrenchment of First Nation, Metis, and Inuit peoples inherent right to self-government and self-determination. It was a political issue in that First Nations, Metis, and Inuit peoples were not allowed to actively participate along with the premiers of the provinces. The right to self-government was entrenched however, the discord to the defining of self-government remained with undefined parameters.

The second factor emerged in 1985 with passage of Bill C - 31to amend the Indian Act. The Bill reinstated Indians who lost their rights through the enfranchisement policy of the past. The population of First Nations increased dramatically because of individuals reinstatement of their Indian Status. "The National Indian Brotherhood realized that, although it still considerted equality rights irrelevant to the Aboriginal or Indian rights issue, it had to deal with them. The federal government intended to pursue Indian Act changes in this respect, with or without the consent of the National Indian Brotherhood." (Frideres 1993:356) It was not because First Nations did not beleive in equality that the Bill did not have the full support of First Nations or the involvement of First Nations but it was because it dicatated to First Nations who were their citizens. It was contradictory as it reinstated First Nations (mainly women) who had lost their rights by the process of enfranchisement..

In the area of post secondary education the people who were reinstated became the decoys for changes in policy . It was evident that the post secondary student population was increasing. Although, post secondary education was one of the fastest growing and most successful programs run by the Department of Indian Affairs, the government imposed a cap that did not adequately address the needs of First Nations and their communities. It was the government's intent to devolve programs, services and responsibility to the First Nations with a set of budget and policy requirements.

The rationale to cap post secondary dollars was to stabilize the numbers of students entering institutions by: decreasing the student months (from 72 to 40 months), elimination of subsidizes such as day-care, defining acceptable institutions of study,and prioritizing students in levels (Level (1) - technical; Level (2)-university-Level (3) - Masters/Ph.D). Another perceived rationale was to prevent more students from convocating from university programs with recognized professional requirements that were required for entry into a competive labour market.

A policy was developed and a budget formalized for the administration of post secondary education. The Department devolved the cost to the First Nations level by off loading the program. The budget predetermined how many students a First Nation could support, thereby limiting their student population. The political climate and the budget caps left First Nations negotiating the administration of Post Secondary Student Support Program (PSSSP) and left many First Nations without a choice on how many students they could support.

PSSSP administration changed as First Nations assumed the administration and control of program. With the introduction of PSSSP, First Nations watched as post secondary education was capped and resources limited. In 1988, PSSSP began with an announcement to increase dollars spent on First Nations education. The increase was to be over a five year period which would allow for First Nations to have equity and participate in university education as other Canadians. The budget needed to change to reflect the policy changes and the direction and scope of post secondary education.

The increased population on the projected numbers of First Nations reapplying for status alarmed the department and the government. It was obvious that the government was threatened by the increased knowledge and awareness gained by those who sought entry to the doors of the academy. Students sought to change the focus and to protect their inherent right to education that was threatened by the changes to E-12.

Student Reaction

In this section, I will address how students reacted to the changes in post secondary education budget and policy. As mentioned earlier, changes to the administration of post secondary funding did not begin until 1974 with the policy development of the E-12 guidelines. In 1978, changes were made to the program without First Nations approval or input. Because the changes threatened the treaty right to education, students organized and met in Red Deer, Alberta to discuss the implication of the new guidelines and the impact in the future. Students wanted to be assured that the inherent right to education was protected. Lanceley notes, " However, what they were given was a statement by Al Simpson of the Indian Affairs branch that "education was not a treaty right." (1991:241)

One of the outcomes of the Red Deer meeting was the creation of ad hov national student organization. Students were successfully able to meet with the Minister of Indian Affairs and address issues of eligible months of student funding , allowances, capping of the budget, and increases to student monthly allowances. " The Minister agreed to a second meeting which took place on Decemeber 15, 1978, where the Minister was presented with the statement on "education as a treaty right". The Minister rejected the statement but committed his Department immediately to revise the guidelines and to request that the NIB act as an official coordinating body for consultations. (Lanceley:1991:241)

The guidelines remained as approved by the Treasury Board, and First Nations representatives remained firm on their rejection of the guidelines. The NIB position was that, "as long as the E-12 guidelines continue to be the particular instrument for implementation of post secondary policy, their delineated form and any proposed revision to that form would necessarily reflect the relative position on the fundamental issue of 'education as a treaty right'." (Ward:1988:225)

In 1987, another advancement of student organization occured when Bill McKnight, Minster of Indian and Northern Affairs unilaterally imposed a cap on post secondary education. INAC imposed a cap of $130 million dollars which meant that fewer students would receive post secondary assistance. The students and their supporters realized that the denial of students meant the numbers would increase and over a period of time it would be compounded by increasing need and decreasing resources. It was in the summer of 1988 students

were able to organize and educate their own student population who were not aware of the changes or the threat to "education as a treaty right". Students organized nationally when it was realized that an estimated 1000 students were denied access to funding. Students were able to educate their communities and themselves to the danger and the possing threat to the "treaty right to education".

Students were outraged that once again, INAC implemented a program without proper consolation with First Nations. Students demanded that the policy be retracted and stopped. INAC response was to send all Chiefs and Councils a questionnaire. However, the questionnaires were skewed so that the responses would appear that First Nations agreed with the changes and the policy. Students urged their First Nations not to answer or respond to the questionnaire. In addition to the political organization of students, students also committed themselves to educate all peoples on the plight and the reality of First Nations in Canada.

In 1989, a cabinet shuffle resulted in Pierre Cadiux replacing Bill McKnight. Cadieux announced the changes would take effect on April 1, 1989. The student responded with a national day of protest. The protest involved a hunger strike which lasted for thirty six days, occupation of INAC offices, and arrests of students and their supporters (Lanceley:1991:23)

Across the country, students reacted to the policy changes with a national hunger strike, protests, and occupations of federal offices. On April 14, 1989, students and their supporters occupied federal Indian Affairs offices across the country. Students and their supporters were charged with public mischief. The occupation awoke the Canadian public to a new generation who rose to the challenge and defended the "treaty right to education." It introduced another generation of warriors who understood the threat to post secondary education and who did not wish to see a right become a privilege. First Nations elected representatives understood the threat and supported students and assisted in the defense of " post secondary education as a treaty right".

The public awareness of the plight of First Nations and Aboriginal peoples helped to educate Canadians and dismiss many myths about First Nations and Aboriginal peoples. Students questioned the commitment by different levels of government and leadership to post secondary education. Students who had gained success in educational issues were at the political tables defending their political platform and educating people about the reality of losing the right to access post secondary education. " Most importantly, the hunger-strike and protest awoke not only the Canadian public; it awoke the Indian nations to the fact that the new

generation of Indian students is unwilling to be submissive to either government or Indian leadership when it ignores their interests." (Lanceley:1991:247)

As with the changes in 1978, students realized that the changes to E-12 meant that fewer students would be able to enter university, and students were to finish in the time allotted by the Department. The student months were capped at 32 with an extension of 8 months leaving a total of 40 student months of funding to complete four year program. Students faced limitations of programs due to a residency clause in the policy stating a student must attend a institution nearest to their home reserve. This is problematic for students because students are limited to programs offered in their provinces. Under the old policy, students were not limited in pursuing advanced level education or limited to institutions of study to pursue graduate studies. A major problem for students is accessing funding for Graduate Studies in Masters or Ph.D. programs.

Students were faced with another dilemma, the administration of post secondary education by their First Nations. Students feared that accessing funds would be problematic at the First Nations level. Students did not understand the complexity of the administration of the program and did not know whether the treaty right to education would include C-31 students. First Nations were new administrators who understood that the budget included all band members. First Nations also understood that they would administer a program that does not recognize " Treaty Right to Education". It is problematic as people do not understand why come they can not attend university when it is a treaty right.

First Nations Administration of Post Secondary Education

This section of the paper deals with the contradications associated with issue of First Nations administration of post secondary education. Saskatchewan will be used as a case study because it is familar to the author's knowledge both as a student and as a post secondary coordinator. Students were apprehensive about First Nations controlling the direction and administration of post secondary education.

In the late 1980's, in Saskatchewan, First Nations began to administer the post secondary student support program for their First Nations and Tribal Councils. In 1990, Saskatoon Tribal Council was the first tribal council to assume control and administer the program and to devolve the program to the band level. The devolution to the band level results in First Nations maintaining control of "treaty right to education" with the administration of post secondary education. It was a Catch- 22 situation for First Nations because if they did not administer the program another agency would administer the program. Thus, many First Nations had no choice but to administer the program.

The devolution of the program limits the needs of First Nations education by the budget, the policy, and the administration of the program. The policy sought to control the quantity and quality of academic learning and access to university education. First Nations have understood and negotiated the right to post secondary education as " learning the cunning of the whiteman". First Nations understood and recognized that the control and administration was protected if they were the administrators.

However, from the federal government perspective, the rationale to change the policy was based on education as a privilege for all citizens and to create equity for First Nations. The issue of the inherent right to education was used as a smoke screen for the real issue which was and continues to be fiduciary responsibility for post secondary education. In Canada, the threat to university education as a whole is a more general concern. Universities are under the stress of program cuts, staff cutbacks, overcrowding classrooms, and the increasing costs. (Basran;Hay:1991:pgs35-58) The government needed to address First Nations budget cuts before it could rationally cut post secondary education in general.

The rhetoric the public heard was that Indians had free education while others were paying for their education. First Nations treaty rights are misunderstood by the general public. Students armed with both oral tradition and combined with academic knowledge were able to address the misunderstandings and interpretation of treaty rights. Students were able to defend why education is a treaty right and not a privilege. In their defense students were able to address why the budget was capped and changed.. Students realized that an educated First Nations posed a serious threat to the state as students could now interpret, read policy, law, history, and understand the consequences of knowledge and power. The capped budget ensured the state that the education of First Nations could be controlled by the almighty purse string.

The limitations of the past policy were passed down to First Nations. First Nations administration of post secondary dollars could restructure the policy to reflect a global budget that would address the needs of their First Nations. However, while on one hand it allows for funding of students it constraints the demands of the program. In reality, the dollars are set aside for student to access their perceived right to education and administering organization are distributing the dollars for the students who are members of First Nations.

First Nations benefit from administering the program as it increase their overall capital and planning dollars. However, one has to remember that the program is demand driven and First Nations do not receive additional dollars. Due to this fact the program is a reactionary as opposed to proactive which would allow for better usage of the dollars. INAC has instituted their divide and conquer tactic through the allocation of funding. It appears that while some First Nations have surpluses other First Nations are in a deficit. It is most often smaller bands who are in jeopardy while larger bands can afford to offset administration.

In 1992, INAC once again changed the funding formula without consultation with First Nations. The formula changed for students and affected the administration of the program. The per capital allocation was based on the 18-34 yea old population. The population included the Bill C 31 and urban First Nations that created a split between the on and off reserve population. INAC suggested to First Nations that if they did not wish to administer the program the program would be administered on their behalf. First Nations did not want to administer a program which did not recognized **"education as a treaty right"**.

INAC imposed an amount of growth for the program starting in 1993 to allow for equity of the program for all First Nations. It was imposed as a global expenditure and INAC must manage the dollars within

the overall allocated amounts. The province of Saskatchewan received in 1994-95 from the 20 million promised by the Liberal Redbook campaign was 3.4 million dollars to address their student population. This allowed for the First Nations to send additional new students and assist First Nations in addressing their waitlist of applicants. INAC has not dictated to First Nations how to administer the program.

The formula created a difference in the perceived participation of First Nations students in attending universities. The government prioritized the age of students who should qualify for funding and the age qualifier was used in statistically proving that the increase in enrollment was comparable to the national average. The policy per capital allocations are based on the population of 17-34 years and the enrollment rate is comparable to the average ages of university students.

Post Secondary Enrollment,

First Nations compared to All Canadians

Registered Indians	1990-91	1991-92	1992-93	1993-94
Population enrolled 17-34	**4,129**	**4,717**	**5,607**	**7,151**
Population aged 17-34	**179,304**	**184,254**	**188,790**	**192,631**
Enrollment rate (%)	**2.3**	**2.6**	**3.0**	**3.7**
All Canadians				
Population enrolled 17-34	**499,044**	**517,899**	**566,681**	**545,497**
Population aged 17-34	**8,483,000**	**8,390,600**	**8,329,100**	**8,229,200**
Enrollment rate (%)	**5.9**	**6.2**	**6.8**	**6.6**

Source: Indian and Northern Affairs Canada: Basic Departmental Data, 1995, pg.43

What has been the impact of the policy changes and devolution on post secondary enrollment? During the ten year period, (1984-85 to 1994-95), many factors have affected the participation of First Nations students who wish to attend post secondary institutions. These factors include: policy changes along with the increase in tuition, shortages of employment, and changes in allocations. In the last ten years, the population of First Nations students has steadily increased while the funding for students has decreased. Therefore, the First Nations student population has not been able to fully develop to reach equity with the general population despite the objective in changing the policy to reflect equity.

If what the government believes is true, after 1989 the First Nations population should have shown a massive increase in terms of per capita enrollment. Since the difference in rate of enrollment doesn't alter over time, it is obvious that the population of First Nations university students remains limited. In terms of raw numbers, during 1990-1991, 6,455 First Nations students should be attending a university if there was equity with the general population; in 1991-92, that total would be 6,633; in 1992-93, it would be 7,174 students; and in 1993-94, 5586 First Nations students should be attending university, the rate of enrollment was the same.

Conclusion:

I have argued that the issue of post secondary education as a treaty right, is at the centre of discord in relation to budget constraints. The nature and the scope of post secondary education as a treaty right continues as a unresolved issue. Pragmatically, First Nations who now administer a program are forced to become gatekeepers. The post secondary program resulted in increased numbers of First Nations students in the overall college, technical and university population. Consequently, budget constraints acted as a catalyst for First Nations control to administer post secondary education. More importantly, First Nations would be able to defend education as a treaty right under their jurisdication.

The rationale given by the department was that this was the way to provide equity to all First Nations in terms of the participation rate in advanced education. The rationale does not allow for the needs of First Nations to be met given the requirements of funding. This is quite problematic as the needs of First Nations in adult literacy, upgrading, trades, and technical level training are underfunded. Therefore, the number of First Nations students who can attend university is predetermined at the First Nations level. Thus, some First Nations students must waiting for funding to attend advanced level education.

In terms of financial responsibility , INAC's mandate is determined by the national budget allocations for programs and services for INAC and First Nations administration. The off loading of post secondary education has resulted in decreases in areas of staffing, and administration dollars, and increase in students waitlists. Deficits are created in order to educate those continuing in the program and those who can access funding. The result for First Nations administration has been defining a policy of post secondary education, student criteria, and administration of the post secondary program. Within a program that is inadequately funded and cannot address the needs of the total First Nations student population.

The government's fiduciary responsibilities is devolved to First Nations administration which allows for greater self control over the economics of individual First Nations and the jurisdication for the protection of treaty rights. The process of devolution, however, has not benefited most First Nations in terms of the amount of funding available for delivery of programs and services. Rather, insufficent budget allocations resulted in some First Nations administrations inheriting a deficit to administer programs and services.

In Saskatchewan, the Federation of Saskatchewan Indian Nations with associated First Nations formed the Post Secondary Counselors Association. The Post Secondary Counselors Association is working towards

solutions to the policy and the budget limitations. The Association has acted as an advocate for First Nations and their student population by creating their policies and forms of administration. The issue of "education as a treaty right" remains unresolved.

Post secondary education is currently been assaulted by an increase in tuition, textbooks, and the restructuring of Canada's student loans. Due to the nature of the political climate, it is difficult for First Nations to assert education as a treaty right. It is difficult to prove that the uncapping of funds would increase the numbers of First Nation students when it appears that the population is increasing. While it is true that the population is increasing the funding is decreasing. However, it is still questionable as to how the government can address equity with limited resources and the issue of "treaty right to education" remaining unresolved.

Full accessibility to university education is questionable as First Nations struggle to honor the perceived right to education as they are forced to create a policy which limits the access and number of students who may enter universities. It is a situation where First Nations administrators have become keepers for the peoples' destiny.

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